

April 26, 2023

Via ECF [Courtesy Copy Via Federal Express]

The Honorable Judith C. McCarthy
United States Magistrate Judge
United States District Court
300 Quarropas Street
White Plains, NY 10601-4150

Re: Discovery Issues – Failure to Provide Individual Interrogatory Responses
***U.S. ex rel. Integra Med Analytics LLC. v. Issac Laufer, et al.*, No. 7:17 Civ. 9424–CS**

Dear Judge McCarthy:

The Facility Defendants respectfully submit this letter in accordance with the Court’s Discovery Dispute Order (Dkt. 156) because the Government refuses to provide individualized interrogatory responses for each Facility Defendant.

The Government chose to sue eleven individual Facility Defendants. Each one is entitled to serve its own set of interrogatories. During the January 25, 2023, status conference, the Government expressed concerns about receiving separate, similar requests for each Facility Defendant. Jan. 25, 2023 Transcript at 42. The Facility Defendants explained that they were concerned about receiving a universal, undifferentiated response if they did not serve separate requests. *Id.* at 43. This Court was empathetic to those concerns stating, “You [the Government] have to be able to parse out the allegations that you have against each of them.” *Id.* at 44–45.

In light of the Government’s concerns, the Facility Defendants served an omnibus set of interrogatories with the understanding that the Government would provide individualized responses. To be sure, the instructions explicitly asked for the Government to respond individually for each of the Facility Defendants.¹ The United States’ Responses² ignore these instructions.

¹ The relevant excerpt of the Facility Defendants’ Omnibus First Set of Interrogatories is attached as **Exhibit A**.

² The Plaintiff United States’ Objections and Responses to Facility Defendants’ Omnibus First Set of Interrogatories (“Responses”) is attached as **Exhibit B**.

After exchanging correspondence³ (Exh. C.1 at 1, Exh. C.2 at 1, Exh. C.3 at 1–2) and holding a telephonic meet and confer (Exh. C.4 at 1 and Exh. C.5 at 1), the Government continues to be unwilling to amend its Responses. The Government’s position is that—based on its theory of a centralized scheme—providing individualized interrogatory responses is superfluous because all information that supports its allegations, whether related to a specific facility or not, is relevant to all facilities. The Government further asserts that it has no obligation to individually parse out information to support allegations as to each specific Facility Defendant.

The Government’s position ignores its obligation to proffer evidence as to each defendant individually to prove its claims and stymies each Facility Defendant’s ability to understand what evidence the Government believes supports the claims. This is perhaps most apparent with regard to interrogatories 4 and 6, which seek information about the basis for the contention that each Facility Defendant acted knowingly and specific false statements made by each facility, respectively. Exh. B at 8, 10. The Responses merely direct the Facility Defendants as a group to certain paragraphs of the Complaint, ignoring that the Facility Defendants are separate legal entities and statements or knowledge of one facility are not imputed to all of them. *See U.S. v. Bornstein*, 423 U.S. 303, 312 (1976) (“The [FCA] . . . penalizes a person for his own acts, not for the acts of someone else.”); *Nat. Res. Def. Council, Inc. v. Cnty. of Los Angeles*, No. CV081467AHMPLAX, 2009 WL 10672602, at *3 (C.D. Cal. Mar. 2, 2009) (concluding that “as separate legal entities, . . . each defendant is entitled to a [interrogatory] response directed solely toward it”); *Jackson v AFSCME Local 196*, CIV 3:07CV0471, 2008 WL 4479672, at *2 (D. Conn. Sept. 29, 2008) (ordering interrogatory responses to address “each of the defendants”).

The Court should order the Government to provide individualized interrogatory responses.

³ The parties’ conferral letters and correspondence are attached as Composite **Exhibit C**.

Sincerely,

/s/ J. Bradley Robertson

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